IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2228 OF 2003

Shri Balasaheb Sidhgonda Patil, .. Petitioner.
Orig.Plff

Vs

Smt.Sumitra Deogonda Patil & ors .. Respondents
Orig.Defts.

Shri Dilip Bodake, for the petitioner.

Mr P.R.Arjunwadkar, for respondent no.1.

CORAM : D.B.BHOSALE,J.

DATE : 30.11.2005.

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the judgment and order dated 24.6.1998 passed by the Addl.District Judge, Kolhapur in Misc Civil Appeal No.236 of 1996, by which the appeal was allowed and the order passed by the trial Court was set aside. The trial Court had granted temporary injunction on 12.10.95, restraining the respondent-defendant no.1, i.e. Smt.Sumitra Deogonda Patil from obstructing possession of the

petitioner-plaintiff in the suit property. The judgment and order passed in Misc.Civil Appeal No.263 of 1996 was carried in Civil Revision Application No.684 of 1998 in this Court and on 6.7.1998, while issuing rule on the civil revision application, the ad-interim relief in terms of prayer clause (c)© was granted. The civil revision application was, however , dismissed as not tenable by this Court on 17.12.2002. Hence, the petitioner preferred this writ petition under Article 227 of the Constitution of India. On 5.4.2003, the writ petition was admitted and the ad-interim relief in terms of prayer clause (c) was granted, which operates against the respondents till this date. Prayer clause (c) reads thus:-

> "(c) Pending the hearing and final disposal of the abovementioned writ petition, the respondents may be restrained from constructing and/or disturbing the peaceful possession of the petitioner over suit property bearing City Survey No.304 situated at village Mangaon, Taluka Hatkanagale, admeasuring 133 sq.meters."

Mr Bokade, learned counsel for the petitioner, submits that the prayer (c)© in the writ petition and the prayer (c) © in the civil revision application was identical. It is thus clear that the interim relief that was granted by the trial Court on Exhibit-5 application on

12.10.1995 operates till this date. It may be noticed that no efforts whatsoever were made by the respondents by filing a civil application for getting the interim order vacated till this date. Mr Arjunwadkar, learned counsel for the petitioner, wanted me to examine the merits of the case, However, I find no reason to interfere into merits of the case and, in my opinion, interest of justice would be served by the following order.

(i) The trial Court shall decide the suit, bearing Regular Civil Suit No.156 of 1994 as expeditiously as possible, preferably within a period of six months from the date of receipt of this order.

(ii) The interim relief granted by this Court initially on Civil Revision Application No.684/98 and thereafter in the present writ petition on 5.4.2003, shall remain operative till the disposal of the suit.

(iii) The trial Court shall decide the suit on merits in accordance with law and uninfluenced by the orders passed in the instant proceedings arising out of Exhibit-5 application. While keeping the interim relief operating till the disposal of the suit, I shall not be

understood to have examined the merits of the case.

(D.B.Bhosale,J.)